In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 18776 of 2007
Date of decision:December 18, 2007

M/s Vijay Industries

---Petitioner

Vs.

State of Haryana and others

---Respondents

Coram: **HON'BLE MR. JUSTICE M.M.KUMAR**
HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Monish Sharma, Advocate,
for the petitioner.
M.Ritu Bahri, DAG, Haryana.

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M.M.KUMAR, J.

In this petition challenge is to order dated 3.7.2006 (P-7) passed by the Higher Level Screening Committee (for brevity 'the HLSC'). The petitioner has filed an appeal challenging the order of Lower Level Screening Committee, Fatehabad (for brevity 'the LLSC') passed on 18.6.2004.

When the matter came up for hearing, this Court issued notice of motion for today and asked the learned State counsel to find out as to when a copy of the order passed by the LLSC was communicated to the petitioner.

At the time of hearing today, learned State counsel apprised the Court that the order dated 18.6.2004 was sent to the petitioner under registered A.D. which came back undelivered with the endorsement that addressee has left the place. However, the petitioner filed an application dated 20.9.2004 with the request for supply of copy of order dated

18.6.2004 as he did not receive the copy of the same. A copy of the order was in fact supplied to him on 25.10.2004 and the appeal was filed by the petitioner on 15.11.2004 before the HLSC which is within the period of 30 days as stipulated by Cause (f) of Rule 28A(4) of the Rules.

A perusal of the proceedings of HLSC in its 94th Meeting held on 23.5.2006 which was communicated to the petitioner vide order dated 3.7.2006 (P-7), shows that the appeal has been dismissed being time barred by four months and two days. The HLSC has declined to decide the appeal on merits. However, in the facts and circumstances of the case, as stated by the learned State counsel, the appeal could not be dismissed on the ground of delay as the appeal was filed by the petitioner on 15.11.2004 i.e. within 30 days of the receipt of the order which was supplied to him on 25.10.2004. Therefore, the impugned order dated 3.7.2006 and the proceedings of the 94th Meeting held on 23.5.2006 of the HLSC to the extent of the case of the petitioner are liable to be quashed.

In view of the above, the order dated 3.7.2006 (P-7) is hereby quashed. The matter is sent back to the HLSC for deciding the case afresh on merit. As the matter is pending for long time, it would be appreciated if the HLSC decide the case expeditiously preferably within a period of six months. The petitioner shall furnish his fresh address within two weeks to the authority concerned as the petitioners are stated to have left the place where it use to function.

(M.M.KUMAR)
JUDGE

(RAKESH KUMAR JAIN)
JUDGE

DECEMBER 18, 2007
paramjit